

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

STATE OF OHIO
EX REL TED MARCUM,

Petitioner, : Case No. 3:17-cv-437

- vs -

District Judge Walter H. Rice
Magistrate Judge Michael R. Merz

SHERIFF DAVE DUCHAK,

Respondent.

DECISION AND ORDER ON MOTION TO STRIKE

This case is before the Court on Motion (ECF No. 44) of Defendants Duchak, Davie, Gutmann, and Layman to Strike Plaintiff's Sworn Affidavit of February 22, 2018 (ECF No. 40).

The Sworn Affidavit begins by recounting the suicide in the Miami County Jail of an inmate within the twenty-four hours before the Affidavit was filed. It continues by noting jail overcrowding conditions and understaffing and the serious medical needs of other inmates along with inadequate medical care. Marcum complains that he himself has gained forty to fifty pounds since being incarcerated because of poor dietary provisions and lack of exercise. He also complains of Sheriff Duchak's failure to visit the Jail at least monthly as required by Ohio law.

As Defendants' note, the Affidavit is improper as to form because it contains no notary public jurat. More importantly, it is not in support of any claims made in the Complaint or claims proposed to be added by amendment or supplementation.

Accordingly, the Motion to Strike is GRANTED.

April 10, 2018.

s/ *Michael R. Merz*
United States Magistrate Judge